

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BROCADE COMMUNICATIONS SYSTEMS, ) Case No.: 10-CV-03428-LHK  
INC., a Delaware corporation, and FOUNDRY )  
NETWORKS, LLC, a Delaware limited liability )  
company, )  
Plaintiffs, )  
v. )  
A10 NETWORKS, INC., a California ) MINUTE ORDER; CASE  
corporation, LEE CHEN, an individual, ) MANAGEMENT ORDER; AND ORDER  
RAJKUMAR JALAN, an individual, RON ) RELATING CASE  
SZETO, an individual, LIANG HAN, an )  
individual, STEVEN HWANG, an individual, )  
and DAVID CHEUNG, an individual, )  
Defendants. )

Clerk: Martha Parker Brown  
Reporter: Lee-Anne Shortridge  
Length of hearing: 2hr 49min

Plaintiff Attorneys: Denise Mингrone, Fabio Marino, Annette Hurst

Defendant Attorneys: Scott Mosko, David Martens, Ann Liroff (for David Cheung), Mark Meyer (for Liang Han)

A case management conference was held on: November 29, 2011 at 2:00 p.m. A further case management conference is set for Wednesday, February 15, 2012 at 2:00 p.m.

MOTION TO RELATE: Brocade has filed an Administrative Motion to Consider Whether Cases Should Be Related, stating that the following cases may be related within the meaning of Civil L.R. 3-12:

11-CV-05493-WHA A10 Networks, Inc. v. Brocade Communications Systems, Inc.

10-CV-03428-LHK Brocade Communications Systems, Inc., et al. v. A10 Networks, Inc., et al.

On the basis of the motion pleadings and oral argument, as the Judge assigned to the earliest filed case, I find that the cases are related as defined by Civil L.R. 3-12(a). Counsel are instructed that all future filings in the reassigned case are to bear the initials **LHK** immediately after the case number. Any case management conference in the reassigned case will be rescheduled by the Court. Any date for hearing a noticed motion is vacated, and any motion must be re-noticed by the moving party to be heard before the undersigned; any deadlines set by the ADR Local Rules remain in effect; and any deadlines established in a case management order continue to govern, except dates for any appearance in court, which will be rescheduled by the undersigned.

**MEETING BETWEEN PARTIES:** A10's Lee Chen, and Brocade's Ken Cheng were ordered to meet in person at 2:00 p.m. in the Court's jury room on December 13, 2011 to explore case resolution. The meeting shall be considered a private and confidential settlement discussion. Prior to that time, attorneys for both A10 and Brocade shall advise Messrs. Chen & Cheng the extent of the projected costs and time estimates of proceeding through trial and appeal on both this matter, and the related matter discussed above.

1 A10'S MOTION TO COMPEL INTERROGATORY RESPONSES: The parties agreed to the  
 2 following compromise regarding A10's motion to compel interrogatory responses. A10 will send a  
 3 letter to Brocade identifying the deficiencies Brocade's responses to interrogatories #1-3 by  
 4 December 2, 2011. By December 15, 2011, Brocade will provide supplementary responses to  
 5 interrogatory #3. By January 15, 2012, Brocade will provide supplementary responses to  
 6 interrogatories #1 and #2.

7 BROCADE'S MOTION TO COMPEL 30(b)(6) DEPOSITION is GRANTED, in part, for the  
 8 reasons stated on the record. By December 13, 2011, A10 will produce 30(b)(6) deponents to  
 9 testify regarding categories one through three as identified on the record. By January 15, 2012,  
 10 A10 will produce a 30(b)(6) deponent to testify regarding third party source code files.

11 MOTIONS TO COMPEL RELATED TO PROTECTIVE ORDER are DENIED as moot for the  
 12 reasons stated on the record.

13 OTHER PENDING DISCOVERY MOTIONS: As agreed on the record, all other pending motions  
 14 to compel are withdrawn by the parties.

15 A10'S DEPOSITION OF BROCADE WITNESS: Brocade was ordered to produce its witness for  
 16 deposition in response to A10's October 2011 Notice of Deposition no later than December 6.  
 17 A10's request for sanctions is DENIED for the reasons stated on the record. Brocade must produce  
 18 its witness for deposition on third party source code files no later than January 15, 2012.

19 BROCADE'S REQUEST FOR CUSTODIAL DATA is DENIED for the reasons stated on the  
 20 record.

21 DEFENDANT CHEUNG'S DISCOVERY REQUEST: Brocade agreed to allow David Cheung to  
 22 access documents designated as Highly Confidential – Attorney's Eyes Only that Brocade has  
 23 identified in response to Mr. Cheung's discovery requests in order for Mr. Cheung to defend  
 24 himself in this lawsuit. Brocade shall file a stipulation memorializing this agreement by November  
 25 30.

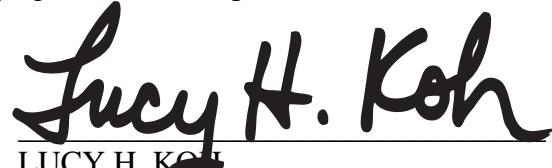
26 WITHDRAWAL OF SUMMARY JUDGMENT MOTIONS: Brocade shall file a stipulation  
 27 withdrawing, without prejudice, its motion for summary judgment of infringement of United States  
 28 Patents 7,454,500; 7,581,009; 7,657,629; 7,584,301; 7,840,678 and withdrawing, without  
 29 prejudice, a portion of its argument from Brocade's motion for summary judgment on non-  
 30 infringement of A10's United States Patent 5,875,185 on November 29, 2011; and a stipulation  
 31 regarding the motion for summary judgment on assignor estoppel by November 30, 2011. The  
 32 Court deferred ruling on whether to strike all or parts of A10's motion for summary judgment of  
 33 non-infringement on Brocade's United States Patents 7,637,427 and 7,716,370 until the summary  
 34 judgment ruling.

35 IN PERSON MEET AND CONFER: The parties shall meet on December 20 at 10:00 a.m. in  
 36 courtroom 8, 4<sup>th</sup> floor to meet and confer regarding any pending case management issues. Counsel  
 37 wishing to join in the conference telephonically shall file a statement indicating so by December  
 38 13, 2011, and providing a contact telephone number.

39 NARROWING BROCADE'S CASE: By December 15, 2011 Brocade will identify the 20  
 40 copyrights that it will pursue in this case. By January 31, 2012 Brocade will identify the (1) 20  
 41 trade secrets, (2) 10 patent claims, and (3) five copyrights that it will pursue in this case.

42 **IT IS SO ORDERED.**

43 Dated: November 30, 2011



44  
 45 LUCY H. KOH  
 46 United States District Judge